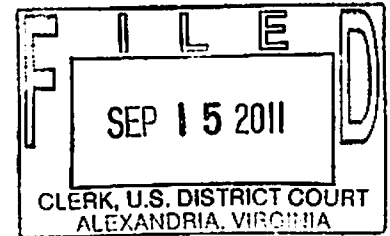


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED MARKETING SOLUTIONS,
INC.,

Plaintiff,

v.

ANGIE M. FOWLER, et al.,

Defendants.

Civil Action No. 1:09cv1392

MEMORANDUM OPINION

THIS MATTER comes again before the Court for consideration of attorneys fees and costs pursuant to this Court's order of June 18, 2010 and pursuant to Federal Rules of Civil Procedure 37.

Subsequent to the order of The Honorable Gerald Bruce Lee of March 2, 2011, Defendants filed a Memorandum in Support of Defendants Motion to Compel and Remand, accompanied by three declarations. Plaintiff also filed an opposition to the motion.

The Court must evaluate the claim for attorney fees pursuant to the "Johnson Factors" as reiterated in Robinson v. Equifax Info. Servs., LLC, 560 F.3d 235, 243-44 (4th Cir. 2009). Since this matter involved a discovery motion rather than a complete disposition of a case after trial, many of the factors, notably, "(4) (the attorney's opportunity costs in pressing the instant litigation), (6) (the attorney's expectation at the outset of the litigation), (7) (the time limitations imposed by the client or circumstances), (8) (the amount in controversy and the results obtained), (10) (the undesirability of the case within the legal community in which the suit arose), and (11) (the nature and length of the professional relationship between attorney and client)" are not particularly applicable.

As to the remaining factors, the Court finds as follows:

1. The Time and Labor Expended

Mr. Einbinder spent a total of 14.5 hours on this motion, from time preparing the motion through appearance in court at the hearing. The Court finds that time to be reasonable and necessary. The Defendant was successful on the Motion to Compel and the Court finds Defendants pleadings and argument in Court sufficient to support the hours claimed.

2. Novelty and Difficulty of the Questions Raised and 3. Skill Required to Properly Perform the Legal Services Rendered

The Court finds that those factors are not significant enough to alter the requested reward because the issues were not unique and were of average difficulty.

5. The Customary Fee for Like Work

Upon review of the pleadings, the Court finds that Defendants failed to submit any independent evidence in support of the reasonableness of fees incurred, other than those of Mr. Michael Einbinder. Thus, the Court must find that the claim for fees charged by other attorneys or staff be stricken.

The Court further finds that it is appropriate to consider the declarations submitted by Robert E. Scully, Jr. and William F. Krebs, who are not counsel of record in this case, to determine the customary fee for like work in Northern Virginia. Based on the qualifications and experience of Mr. Einbinder and the evidence presented by Defendants as well as the rate charged by counsel, Edward Cameron, the Court finds that a rate of \$365 per hour is a reasonable and customary fee for Mr. Einbinder in Northern Virginia.

9. The Experience, Reputation and Ability of the Attorney

The Court finds that Mr. Einbinder's experience, ability and reputation support the hours claimed as well as the hourly rate of \$365.00.


12. Attorney's Fees Awards in Similar Cases

Mr. Einbinder's 14.50 hours and hourly rate of \$365, for a total fee award of \$5292.50 is more than reasonable for bringing a motion to compel and appearing for hearing, as supported by the declarations as well as the Court's experience. Additionally, the Court finds that the amount of \$397.60 for one-half of the costs incurred is reasonable and necessary.

The Court therefore finds that Plaintiff, United Marketing Solutions, Inc., owes Defendants, Angie M. Fowler, et al. the sum of \$5292.50 in attorneys fees plus \$397.60 in costs for a total of \$5690.10, which should be deducted from Plaintiff's judgment against Defendants.

An appropriate order shall be issued.

ENTERED this 15th day of September, 2011.

 /s/
Theresa Carroll Buchanan
United States Magistrate Judge

THERESA CARROLL BUCHANAN
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia